



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,287	08/22/2001	Joshua M. Kopelman	P23305-A USA	9679

7590 02/11/2005

Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

EXAMINER

O CONNOR, GERALD J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,287

Applicant(s)

Kopelman et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 10, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on August 22, 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4, 5, 6, 7, and 8</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of the invention of Group I, claims 1-13, in the reply filed September 10, 2004 is hereby acknowledged.

2. Claims 14-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed September 10, 2004.

Claim Objections

3. Claim 2 is objected to because of the following informality: it appears that "claim 2" (line 1) was intended to be --claim 1--, which change will be assumed for purposes of further consideration of the claim, hereinbelow. Appropriate correction (or clarification) is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lalonde et al. (US 5,283,731).

Lalonde et al. discloses a computer-implemented method for listing an independent seller's good for sale using a CPU, a memory operatively connected to the CPU and a program stored in the memory and executable by the CPU for presenting the good for sale, the method comprising: receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone; and presenting the good for sale, but the presentation of the good for sale in the pre-Internet method of Lalonde et al. is not on a website. However, using a website to present a good for sale is a well known, hence obvious, step to follow for those of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde et al. so as to use a website for presenting the good for sale, as is well known to do, in order to present the good for sale to as wide an audience as possible by using the Internet, and since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 2, the method of Lalonde et al. includes that the series of tones navigates through a voice-prompt system.

Regarding claims 3-5, the method of Lalonde et al. includes that the telephone is a touch tone telephone and that the series of tones generated comprises tones generated by depressing the telephone's keys, but does not include that the tones generated indicate a sequence

corresponding to an alphanumeric sequence of a universal product code (UPC), international standard book number (ISBN), or other standard identification code. However, standard product identification codes such as UPC and ISBN number are well known, hence obvious, to those of ordinary skill in the art, as a convenient means for identifying particular goods or products. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde et al. so as to allow a standard identification code such as UPC or ISBN to be entered in order to conveniently identify the good being or product being (re)sold, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claims 6 and 7, the method of Lalonde et al. includes retrieving information in real time relating to the good from a database; wherein the information retrieved is used to present the good for sale.

Regarding claim 8, the method of Lalonde et al. includes that the information identifying the good identifies a characteristic of the good in addition to an identity of the good.

Regarding claims 9 and 10, the method of Lalonde et al. includes receiving from the seller a selected sale price, but does not explicitly disclose anyone determining and recommending to the seller any recommended sales price. However, a seller soliciting recommendations for a recommended sales price when selling a used good is a well known, hence obvious, step to follow when selling a good. For example, checking the Blue Book value for a used car before determining an asking price for the car. Therefore, it would have been

obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde et al. so as to include someone/something determining and recommending to the seller a recommended sales price, so that the seller would be able to price the good in accordance with the market for the good, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claims 11 and 12, the method of Lalonde et al. includes receiving a seller identification code which is recognizable in association with the seller, the seller identification code comprising tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence associated with the seller.

Regarding claim 13, the method of Lalonde et al. does not explicitly include that the seller identification code is a telephone number of the telephone from which the seller is calling, nor that the determination of a recommended sales price for the good comprises recognizing the telephone's telephone number by a caller identification technique. However, using a telephone number as an ID number for an account, determining a caller's telephone number by means of a caller ID technique, and recommending a sales price based on the seller's geographic area as determined by either of postal code or telephone number area code, are all well known, hence obvious, steps to perform when practicing such a method of selling goods. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde et al. so as to include that the seller identification code would be

the telephone number of the telephone from which the seller was calling, and that the determination of a recommended sales price for the good comprises recognizing the telephone's telephone number by a caller identification technique, as is well known to do, in order to provide as accurate a recommendation as possible by taking into account the geographic area of the seller, and since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to the disclosure.
7. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is **(703) 746-3976**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is **(703) 308-1113**.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at **(703) 308-5183**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Mailed replies should be addressed to "Commissioner for

Application: 09/935,287

Paper No. 20041223

Art Unit: 3627

Page 7

Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

December 23, 2004

 (12-23-04)

Gerald J. O'Connor

Patent Examiner

Group Art Unit 3627